

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

CHRISTOPHER EUBANKS,

Plaintiff,

v.

Civil Action No. 2:09cv126

**UNITED STATES OF AMERICA,
THE FEDERAL BUREAU OF PRISONS and
THE UNITED STATES PROBATION OFFICE,**

Defendants.

ORDER

It will be recalled that on January 12, 2010, Magistrate Judge David J. Joel filed his Report and Recommendation, wherein the Plaintiff was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. Plaintiff filed his objections on January 29 , 2010.

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised by the Plaintiff in his civil rights Complaint, wherein Plaintiff seeks damages on the grounds that he has been illegally detained for 12 months based on an alleged criminal history points calculation error in his presentence investigation report, were thoroughly considered by Magistrate Judge Joel in his Report and Recommendation. Upon review of the Plaintiff's objections, the Court finds that the objections are without merit and have not raised any issues that were not already thoroughly considered and addressed by the Magistrate Judge in his Report and Recommendation. Plaintiff's objections are hereby **OVERRULED**. Moreover, the Court, upon an independent de novo consideration of all matters now before it, is of the opinion

that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. Therefore, it is

ORDERED that Magistrate Judge Joel's Report and Recommendation be, and the same hereby is, accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

ORDERED that the Plaintiff's complaint shall be, and the same hereby is, **DISMISSED** for the failure to state a claim upon which relief can be granted. It is further

ORDERED that the Plaintiff's civil rights complaint be, and the same hereby is, **DISMISSED** and that this civil action be **STRICKEN** from the docket of the Court. It is further

ORDERED that the Clerk shall enter judgment for the Defendants. It is further

ORDERED that, if Plaintiff should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, Plaintiff may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed in forma pauperis from the United States Court of Appeals for the Fourth Circuit.

The Clerk of the Court is directed to transmit a copy of this Order to all parties appearing herein.

ENTER: March 22nd, 2010

/s/ Robert E. Maxwell
United States District Judge